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*Attorneys for Plaintiff*

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

EVA MARIE VENTI, on behalf of herself  
and all others similarly situated,

Case No. 5:22-cv-782

**Plaintiff.**

V.

## GARMON CORPORATION,

**Defendant.**

**CLASS ACTION COMPLAINT**

**JURY TRIAL DEMANDED**

1 Plaintiff Eva Marie Venti (“Plaintiff”) brings this action on behalf of herself  
2 and all others similarly situated against Defendant Garmon Corporation (“Garmon”  
3 or “Defendant”). Plaintiff makes the following allegations pursuant to the  
4 investigation of her counsel and based upon information and belief, except as to the  
5 allegations specifically pertaining to herself, which are based on personal  
6 knowledge.  
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### **NATURE OF THE ACTION**

10 1. This is a class action lawsuit brought on behalf of all people in the  
11 United States who purchased the following NaturVet-branded supplements for dogs  
12 (the “Supplements”):  
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- Glucosamine DS Plus Chews
- Glucosamine DS Chews and Tabs
- Glucosamine DS Plus Tabs
- Glucosamine DS Liquid
- ArthriSoothe-Gold Chews, Liquid and Tablets
- ArthriSoothe Hip & Joint Formula Tablets
- Hip & Joint Plus Chews
- Joint Health Level 3 Powder

20 2. Defendant markets the Supplements as products that help maintain and  
21 improve joint health for dogs. The Supplements’ labels and associated online  
22 representations refer to joint health. For example, the label of the Glucosamine DS  
23 Plus Chews represents that the Supplement “[s]upports connective tissue, cartilage  
24 health, and joint movement.”  
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3. Similarly, for the ArthriSoothe-Gold Chews product, Defendant represents that “[g]lucosamine, Chondroitin, MSM, Hyaluronic Acid, Green Lipped Mussel provide the optimum blend to enhance the body’s normal repair of connective tissue and joints.”<sup>1</sup> Defendant further represents that “[g]lucosamine

<sup>1</sup> <https://naturvet.com/product/arthrisoothe-gold-soft-chews-2/> (last visited 5/4/22).

1 provides the building blocks for synovial fluid, cartilage, and connective tissue and  
2 helps to stimulate the production of proteoglycans which help maintain the health  
3 and resiliency of joints and connective tissue.”<sup>2</sup> Defendant represents on the label of  
4 the product that “[g]lucosamine, MSM, Chondroitin and Green Lipped Mussel . . .  
5 support connective tissue, cartilage health, joint movement, and lubrication of  
6 joints.”

28 \_\_\_\_\_  
29 <sup>2</sup> *Id.*



20       4. Each of the Supplements make representations regarding supporting hip  
21

22 and joint health and/or connective tissue, and each contain the same key active  
23 ingredients:





5. Defendant represents that the Glucosamine DS Liquid and Soft Chews  
Supplements “help maintain normal healthy cartilage and joint function in active  
pets.”<sup>3</sup>

<sup>3</sup> <https://naturvet.com/product/glucosamine-ds/> (last visited 5/4/22);  
<https://naturvet.com/product/glucosamine-ds-soft-chews/> (last visited 5/4/22).

1       6.     Defendant represents that its Hip & Joint Chews, Hip & Joint Plus  
2 Chews, and Joint Health Level 3 Powder “support healthy hip and joint function.”<sup>4</sup>

3       7.     The main active ingredient in the Supplements is glucosamine  
4 hydrochloride. As explained above, Defendant makes representations as to the  
5 efficacy of glucosamine in with regard to joint function and connective tissue  
6 support.

7       8.     The second active ingredient in the Supplements is chondroitin sulfate,  
8 which, according to Defendant, also supports joint function and health, as well as  
9 connective tissue.

10      9.     Unfortunately for consumers, however, the Supplements are a sham.  
11 Decades of studies and peer-reviewed tests have repeatedly shown that supplements  
12 containing glucosamine and chondroitin do not improve joint function in dogs.

13      10.    In 2003, a double-blind randomized controlled trial (“RCT”) involving  
14 71 dogs over 70 days compared the efficacy of Cosequin (a supplement with  
15 glucosamine and chondroitin) against two non-steroidal anti-inflammatory drugs  
16 (“NSAIDs”) and a placebo.<sup>5</sup> The authors objectively assessed improvements in  
17 pain-related functional impairment by measuring ground reaction forces of arthritic  
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<sup>4</sup> <https://naturvet.com/product/hip-joint-plus-soft-chew-bag/> (last visited 5/4/22);  
26 <https://naturvet.com/product/hip-joint-soft-chew-bag/> (last visited 5/4/22);  
27 <https://naturvet.com/product/joint-health-level-3-powder/> (last visited 5/4/22).  
28

<sup>5</sup> Moreau, M., et al., *Clinical Evaluation Of A Nutraceutical, Carprofen And Meloxicam For The Treatment Of Dogs With Osteoarthritis*, Vet. Record No. 152 at 323-29 (2003).

1 limbs and there was subjective assessment by surgeons and owners of gait, joint  
2 mobility, joint pain and discomfort, lameness, and activity. The researchers found  
3 that dogs treated with the supplement “showed no significant response in terms of  
4 the objective gait analysis or either of the subjective assessments during the study,”  
5 while there was a significant response with one of the NSAIDs. Likewise, as to the  
6 owners’ subjective assessment, the supplement containing glucosamine and  
7 chondroitin provided “no significant improvements . . .”  
8

9  
10 11. In 2017, a double-blind, randomized and placebo-controlled trial studied  
12 60 dogs over 97 days.<sup>6</sup> Half of the dogs were given a supplement with glucosamine  
13 and chondroitin, and the other half were given a placebo. The authors concluded that  
14 the supplement “did not have a beneficial treatment effect when compared to placebo  
15 treatment when evaluated by [subjective] daily owner questionnaire and [objective]  
16 patient activity counts.”  
17

18 12. Other publications also indicate that Defendant’s product claims about  
19 the Supplements are false. Plumb’s Veterinary Handbook, in both its 2008 and 2017  
20 editions, noted that glucosamine/chondroitin supplements are “[w]ell tolerated, but  
21 efficacy is uncertain.” The Banfield Journal concluded in 2010 that “the benefits of  
22 using a combination of glucosamine hydrochloride and chondroitin sulfate  
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26 27  
28 <sup>6</sup> Scott, et al., *Efficacy Of An Oral Nutraceutical For The Treatment Of Canine Arthritis: A Double-Blind Randomized, Placebo-Controlled Prospective Clinical Trial*, Vet. Comp. Ortho. Traumatol., 30 at 318-23 (2017).

nutraceuticals to improve symptoms associated with canine and feline joint disease has yet to be determined.”

13. Defendant, a large and sophisticated company, is undoubtedly aware of these studies and knows that the Supplements are ineffective. Nevertheless. It continues to sell them to unsuspecting consumers nationwide.

14. Plaintiff is a purchaser of the Supplements who asserts claims for fraud, breach of express warranty, breach of implied warranty, unjust enrichment, violations of the Magnuson-Moss Warranty Act and the consumer protection laws of the states of New York and California, on behalf of herself and all similarly situated purchasers of the Supplements.

## PARTIES

15. Plaintiff Eva Marie Venti is a citizen of New York who resides in Buffalo, New York. Ms. Venti has purchased NaturVet ArthriSoothe-Gold Chews and Glucosamine DS Plus Chews numerous times over the years for her dog. Most recently, she purchased a 180-count bottle of NaturVet ArthriSoothe-Gold Chews in or about July 2021 from Amazon.com for approximately \$40.23. Prior to her purchases, Plaintiff carefully read the bottle's labeling, including the representations that “[g]lucosamine, MSM, Chondroitin and Green Lipped Mussel . . . support connective tissue, cartilage health, joint movement, and lubrication of joints.” Defendant made additional representations on Amazon's website, including: “PET

1 canine companion receives the nutrients he needs with these joint support dog  
2 supplements that include a healthy blend of wholesome ingredients that offer  
3 additional support for senior pets or dogs recovering from surgery or injuries.”  
4 Plaintiff understood these statements to mean that the Supplements would effectively  
5 treat her dog’s hip and joint pain and would support connective tissue and joint  
6 movement and relied on them in that she would not have purchased the Supplements  
7 at all, or would have only been willing to pay a substantially reduced price for the  
8 Supplements, had she known that these representations were false and misleading.  
9 Plaintiff gave her dog the Supplements as directed.

10       16. Plaintiff also purchased Defendant’s Glucosamine DS Plus Chews.  
11 Most recently, she purchased a bottle of Defendant’s Glucosamine DS Plus Chews in  
12 or about October 2020 from Amazon.com for approximately \$29.35. Prior to her  
13 purchases, Plaintiff carefully read the bottle’s labeling, including the representations  
14 that the Supplement “[s]upports connective tissue, cartilage health, and joint  
15 movement.” Plaintiff also reviewed Defendant’s additional representations on  
16 Amazon prior to purchasing the Supplement, namely: “INGREDIENTS THAT  
17 WORK - Formulated with MSM, antioxidants, Chondroitin, and Glucosamine for  
18 dogs and cats to support connective tissue, cartilage health, joint movement, and  
19 lubrication of joints. Recommended for adult pets, including large breeds and  
20 overweight pets.” Plaintiff also reviewed Defendant’s representation: “OPTIMAL  
21 SUPPORT - Our Glucosamine DS Plus Level 2 Moderate Care joint support soft  
22

1 chews are an excellent cat and dog joint supplement, providing incredible support for  
2 optimal joint flexibility and cartilage health.” Plaintiff understood these statements  
3 to mean that the Supplements would effectively support connective tissue, cartilage  
4 help and joint movement, and relied on them in that she would not have purchased  
5 the Supplements at all, or would have only been willing to pay a substantially  
6 reduced price for the Supplements, had she known that these representations were  
7 false and misleading. Plaintiff gave her dog the Supplements as directed.  
8

9  
10 17. Defendant Garmon Corporation is a California corporation with its  
11 principal place of business at 27461 Vía Industria, Temecula, CA 92590. Garmon  
12 Corporation is the manufacturer and distributor of the Supplements.

13  
14 **JURISDICTION AND VENUE**

15  
16 18. The Court has jurisdiction over this action pursuant to 28 U.S.C. §  
17 1332(d)(2)(A), as modified by the Class Action Fairness Act of 2005, because at  
18 least one member of the Class, as defined below, is a citizen of a different state than  
19 Defendant, there are more than 100 members of the Class, and the aggregate amount  
20 in controversy exceeds \$5,000,000 exclusive of interest and costs.  
21

22  
23 19. This Court has personal jurisdiction over Defendant because Defendant  
24 is incorporated and has its principal place of business in this District, many of the  
25 acts and transactions giving rise to this action occurred in this District.  
26

27 20. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 because  
28 Defendant is incorporated and has its principal place of business in this District.

## **CLASS ALLEGATIONS**

21. Plaintiff seeks to represent a class defined as all persons in the United States who purchased the Supplements (the “Class”). Excluded from the Class are persons who made such purchase for purpose of resale.

22. Plaintiff also seeks to represent a subclass defined as all Class members who purchased the Supplements in New York (the “New York Subclass” or “Subclass”).

23. **Numerosity.** The members of the Class and Subclass are geographically dispersed throughout the United States and are so numerous that individual joinder is impracticable. Upon information and belief, Plaintiff reasonably estimates that there are tens of thousands of members in the Class and Subclass. Although the precise number of Class members is unknown to Plaintiff, the true number of Class members is known by Defendant and may be determined through discovery. Class members may be notified of the pendency of this action by mail and/or publication through the distribution records of Defendant and third-party retailers and vendors.

**24. Existence and predominance of common questions of law and fact.**

Common questions of law and fact exist as to all members of the Class and Subclass and predominate over any questions affecting only individual Class members. These common legal and factual questions include, but are not limited to, whether Defendant's labeling, marketing and promotion of the Supplements is false and

1 misleading.

2       **25. Typicality.** Plaintiff's claims are typical of the claims of the other  
3 members of the Class in that, among other things, all Class and Subclass members  
4 were similarly situated and were comparably injured through Defendant's wrongful  
5 conduct as set forth herein. Further, there are no defenses available to Defendants  
6 that are unique to Plaintiff.

7       **26. Adequacy of Representation.** Plaintiff will fairly and adequately  
8 protect the interests of the Class and Subclass. Plaintiff has retained counsel that is  
9 highly experienced in complex consumer class action litigation, and Plaintiff intends  
10 to vigorously prosecute this action on behalf of the Class and Subclass. Furthermore,  
11 Plaintiff has no interests that are antagonistic to those of the Class or Subclass.

12       **27. Superiority.** A class action is superior to all other available means  
13 for the fair and efficient adjudication of this controversy. The damages or other  
14 financial detriment suffered by individual Class and Subclass members are relatively  
15 small compared to the burden and expense of individual litigation of their claims  
16 against Defendant. It would, thus, be virtually impossible for the Class or Subclass  
17 on an individual basis to obtain effective redress for the wrongs committed against  
18 them. Furthermore, even if Class or Subclass members could afford such  
19 individualized litigation, the court system could not. Individualized litigation would  
20 create the danger of inconsistent or contradictory judgments arising from the same  
21 set of facts. Individualized litigation would also increase the delay and expense to all  
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1 parties and the court system from the issues raised by this action. By contrast, the  
2 class action device provides the benefits of adjudication of these issues in a single  
3 proceeding, economies of scale, and comprehensive supervision by a single court,  
4 and presents no unusual management difficulties under the circumstances.  
5

6 **COUNT I**

7 **Deceptive Acts Or Practices, New York Gen. Bus. Law § 349**

8 28. Plaintiff hereby incorporates by reference the allegations contained in  
9 all preceding paragraphs of this complaint.

10 29. Plaintiff brings this claim individually and on behalf of members of the  
11 New York Subclass against Defendant.

12 30. By the acts and conduct alleged herein, Defendant committed unfair or  
13 deceptive acts and practices by making false representations on the label of the  
14 Supplements and on Defendant's website and those of third-party vendors.

15 31. The foregoing deceptive acts and practices were directed at consumers.

16 32. The foregoing deceptive acts and practices are misleading in a material  
17 way because they fundamentally misrepresent the ability of the Supplements to  
18 positively impact joint health, connective tissue and cartilage in dogs.

19 33. Plaintiff and members of the New York Subclass were injured as a  
20 result because (a) they would not have purchased the Supplements if they had known  
21 that they could not positively impact joint health in dogs, and (b) they overpaid for  
22

the Supplements on account of the misrepresentations that they would support joint health, connective tissue and cartilage, as set forth above.

34. On behalf of herself and other members of the New York Subclass, Plaintiff seeks to enjoin the unlawful acts and practices described herein, to recover their actual damages or fifty dollars, whichever is greater, three times actual damages, reasonable attorneys' fees and costs, and an order enjoining Defendant's deceptive conduct, and any other just and proper relief available under Section 349 of the New York General Business Law.

**COUNT II**

35. Plaintiff incorporates by reference and re-alleges each and every allegation set forth above as though fully set forth herein.

36. Plaintiff brings this claim individually and on behalf of members of the New York Subclass against Defendant.

37. Based on the foregoing, Defendant has engaged in consumer-oriented conduct that is deceptive or misleading in a material way which constitutes false advertising in violation of Section 350 of the New York General Business Law by misrepresenting that the Supplements “[s]upport[] connective tissue, cartilage health, and joint movement” and that “[g]lucosamine, MSM, Chondroitin and Green Lipped Mussel . . . support connective tissue, cartilage health, joint movement, and

1 lubrication of joints.” Defendant made additional misrepresentations regarding the  
2 Supplements, as set forth above.

3       38. The foregoing advertising was directed at consumers and was likely to  
4 mislead a reasonable consumer acting reasonably under the circumstances.

5       39. This misrepresentation has resulted in consumer injury or harm to the  
6 public interest.

7       40. As a result of this misrepresentation, Plaintiff and members of the New  
8 York Subclass have suffered economic injury because (a) they would not have  
9 purchased the Supplements if they had known that they could not positively impact  
10 joint health in dogs, and (b) they overpaid for the Supplements on account of the  
11 misrepresentations that the Supplements “[s]upport[] connective tissue, cartilage  
12 health, and joint movement” and that “[g]lucosamine, MSM, Chondroitin and Green  
13 Lipped Mussel . . . support connective tissue, cartilage health, joint movement, and  
14 lubrication of joints.”

15       41. On behalf of herself and other members of the New York Subclass,  
16 Plaintiff seeks to enjoin the unlawful acts and practices described herein, to recover  
17 their actual damages or five hundred dollars, whichever is greater, three times actual  
18 damages, and reasonable attorneys’ fees and costs, and an order enjoining  
19 Defendant’s deceptive conduct, and any other just and proper relief available under  
20 Section 350 of the New York General Business Law.

**COUNT III**  
**Breach of Express Warranty**

42. Plaintiff incorporates by reference and re-alleges each and every allegation set forth above as though fully set forth herein.

43. Plaintiff brings this claim individually and on behalf of members of the Class and New York Subclass against Defendant.

44. In connection with the sale of the Supplements, Defendant, as the designer, manufacturer, marketer, distributor, and/or seller issued written warranties by representing that the Supplements “[s]upport[] connective tissue, cartilage health, and joint movement” and that “[g]lucosamine, MSM, Chondroitin and Green Lipped Mussel . . . support connective tissue, cartilage health, joint movement, and lubrication of joints.” Defendant made additional express warranties, as set forth above, regarding the Supplements’ impact on joint health, cartilage, and connective tissue.

45. In fact, the Supplements do not conform to the above-referenced representations because they are ineffective.

46. Plaintiff and the members of the proposed Class and the New York Subclass were injured as a direct and proximate result of Defendant's breach because (a) they would not have purchased the Supplements if they had known that they could not positively impact joint health in dogs, and (b) they overpaid for the Supplements on account of the misrepresentations that the Supplements “[s]upport[]

connective tissue, cartilage health, and joint movement” and that “[g]lucosamine, MSM, Chondroitin and Green Lipped Mussel . . . support connective tissue, cartilage health, joint movement, and lubrication of joints.”

47. Plaintiff's counsel notified Defendant of her claims in a demand letter, sent via certified mail, on May 5, 2022.

**COUNT IV**  
**Fraud**

48. Plaintiff incorporates by reference and re-alleges each and every allegation set forth above as though fully set forth herein.

49. Plaintiff brings this claim individually and on behalf of the members of the proposed Class and New York Subclass against Defendant.

50. As discussed above, Defendant misrepresented on the Supplement's packaging that the Supplements "[s]upport[] connective tissue, cartilage health, and joint movement" and that "[g]lucosamine, MSM, Chondroitin and Green Lipped Mussel . . . support connective tissue, cartilage health, joint movement, and lubrication of joints."

51. The false and misleading representations and omissions were made with knowledge of their falsehood. Defendant is a top distributor of dog supplements in the United States that is undoubtedly aware of the studies finding that supplements with glucosamine and chondroitin are ineffective for joint health in dogs. Nonetheless, Defendant continues to sell its ineffective and worthless Supplements to unsuspecting consumers.

52. The false and misleading representations and omissions were made by Defendant, upon which Plaintiff and members of the proposed Class and New York Subclass reasonably and justifiably relied, and were intended to induce and actually induced Plaintiff and members of the proposed Class and New York Subclass to purchase the Supplements.

53. The fraudulent actions of Defendant caused damage to Plaintiff and members of the proposed Class and New York Subclass, who are entitled to damages and other legal and equitable relief as a result.

## COUNT V

## **Magnuson-Moss Warranty Act**

54. Plaintiff incorporates by reference and re-alleges each and every allegation set forth above as though fully set forth herein.

55. Plaintiff brings this case individually and on behalf of the members of the proposed Class and New York Subclass against Defendant.

56. The Supplements are a consumer product as defined in 15 U.S.C. § 2301(1).

57. Plaintiff and members of the Class and the New York Subclass are consumers as defined in 15 U.S.C. § 2301(3).

58. Defendant is a supplier and warrantor as defined in 15 U.S.C. § 2301(4) and (5).

1       59. In connection with the sale of the Supplements, Defendant issued  
2 written warranties as defined in 15 U.S.C. § 2301(6), which warranted that, *inter*  
3 *alia*, the Supplements “[s]upport[] connective tissue, cartilage health, and joint  
4 movement” and that “[g]lucosamine, MSM, Chondroitin and Green Lipped Mussel .  
5 . . support connective tissue, cartilage health, joint movement, and lubrication of  
6 joints.”

7       60. In fact, the Supplements are ineffective for their intended purpose and  
8 do not conform to this representation.

9       61. By reason of Defendant’s breach of warranty, Defendant violated the  
10 statutory rights due to Plaintiff and the members of the proposed Class and the New  
11 York Subclass pursuant to the Magnuson-Moss Warranty Act, 15 U.S.C. §§ 2301, *et*  
12 *seq.*, thereby damaging Plaintiff and the members of the Class and the New York  
13 Subclass.

14       62. Plaintiff and the members of the Class and the New York Subclass were  
15 injured as a direct and proximate result of Defendant’s violation because (a) they  
16 would not have purchased the Supplements if they had known that they were  
17 ineffective for their stated purposes, and (b) they overpaid for the Supplements on  
18 account of the misrepresentations.

19       63. Plaintiff’s counsel notified Defendant of her claims in a demand letter,  
20 sent via certified mail, on May 5, 2022.

## COUNT VI

## **Unjust Enrichment**

64. Plaintiff incorporates by reference and re-alleges each and every allegation set forth above as though fully set forth herein.

65. Plaintiff brings this case individually and on behalf of the members of the proposed Class and New York Subclass against Defendant.

66. Plaintiff and Class members conferred a benefit in the form of monies paid on Defendant by purchasing the Supplements.

67. Defendant voluntarily accepted and retained this benefit.

68. Because this benefit was obtained unlawfully, namely by selling and accepting compensation for the worthless Supplements, it would be unjust and inequitable for the Defendant to retain it without paying the value thereof.

## COUNT VII

## **Violation of Consumer Legal Remedies Act (“CLRA”) Civil Code §§ 1750, *et seq.***

69. Plaintiff incorporates by reference and re-alleges each and every allegation set forth above as though fully set forth herein.

70. Plaintiff brings this claim individually and on behalf of the members of the proposed Class against Defendant for injunctive relief only.

71. This cause of action is brought pursuant to California's Legal Remedies Act, Cal. Civ. Code §§ 1750-1785 (the "CLRA").

1       72. Plaintiff and members of the Classes are consumers who purchased the  
2 Supplements for personal, family, or household purposes. Accordingly, Plaintiff and  
3 members of the Classes are “consumers,” as the term is defined by Cal. Civ. Code §  
4 1761(d).

5       73. At all relevant times, Defendant’s Supplements constituted “goods,” as  
6 the term is defined by Cal. Civ. Code § 1761(a).

7       74. At all relevant times, Defendant was a “person,” as that term is defined  
8 in Cal. Civ. Code § 1761(c).

9       75. At all relevant times, Plaintiff’s purchases of Defendant’s Supplements,  
10 and the purchases of other members of the Classes constituted “transactions,” as that  
11 term is defined in Cal. Civ. Code § 1761(e).

12       76. The conduct alleged in this Complaint constitutes unfair methods of  
13 competition and unfair and deceptive acts and practices for the purposes of the  
14 CLRA, and the conduct was undertaken by Defendant in transactions intended to  
15 result in, and which did result in, the sale of goods to consumers.

16       77. The policies, acts, and practices described in this Complaint were  
17 intended to and did result in the sale of Defendant’s Supplements to Plaintiff and  
18 members of the Classes. Defendant’s practices, acts, policies, and course of conduct  
19 violated the CLRA § 1750 *et seq.*, as described above.

20       78. Defendant represented that its Products have sponsorship, approval,  
21 characteristics, ingredients, uses, benefits, or quantities which they do not have in

1 violation of Cal. Civ. Code § 1770(a)(5) because Defendant represented, *inter alia*,  
2 that the Supplements “[s]upport[] connective tissue, cartilage health, and joint  
3 movement” and that “[g]lucosamine, MSM, Chondroitin and Green Lipped Mussel .  
4 .. support connective tissue, cartilage health, joint movement, and lubrication of  
5 joints.”

6  
7 79. Defendant represented that its Products were of a particular standard,  
8 quality, and grade, when they were another, in violation of Cal. Civ. Code § 1770(7).

9  
10 80. Defendant violated Cal. Civ. Code §§ 1770(a)(5) and (a)(7) by  
11 representing that its Products were safe and effective for use as joint health  
12 supplements for dogs, when they in fact were not.

13  
14 81. Defendant represented that its Products were of a particular standard or  
15 quality when Defendant was aware that they were of another in violation of §  
16 1770(a)(7) of the CLRA.

17  
18 82. Defendant advertised its Products with intent not to sell them as  
19 advertised in violation of § 1770(a)(9) of the CLRA.

20  
21 83. Plaintiff and members of the Classes suffered injuries caused by  
22 Defendant's misrepresentations because: (a) Plaintiff and members of the Classes  
23 would not have purchased the Products on the same terms if they had known the true  
24 facts; (b) Plaintiff and members of the Classes paid a premium price due to the  
25 mislabeling of Defendant's Products; and (c) Defendant's Products did not have the  
26 level of quality, effectiveness, or value as promised.  
27  
28

1       84. Prior to the filing of this Complaint, a CLRA notice letter was served on  
2 Defendant which complies in all respects with California Civil Code § 1782(a). On  
3 May 5, 2022, Plaintiff sent Defendant a letter via certified mail, return receipt  
4 requested, advising Defendant that they are in violation of the CLRA and must  
5 correct, repair, replace, or otherwise rectify the goods alleged to be in violation of the  
6 CLRA and must correct, replace or otherwise rectify the goods alleged to be in  
7 violation of § 1770. Wherefore, Plaintiff seeks injunctive relief for this violation of  
8  
9 the CLRA.  
10

## COUNT VIII

## **Violation of False Advertising Law (“FAL”) Business & Professions Code §§ 17500, et seq.**

14       85. Plaintiff incorporates by reference and re-alleges each and every  
15 allegation set forth above as though fully set forth herein.

17       86. Plaintiff brings this claim individually and on behalf of the members of  
18 the proposed Classes against Defendant.

19       87. California's FAL (Bus. & Prof. Code §§ 17500, *et seq.*) makes it  
20  
21 "unlawful for any person to make or disseminate or cause to be made or  
22 disseminated before the public in this state...in any advertising device...or in any  
23 other manner or means whatever, including over the Internet, any statement,  
24 concerning...personal property or services, professional or otherwise, or  
25 performance or disposition thereof, which is untrue or misleading and which is  
26

1 known, or which by the exercise of reasonable care should be known, to be untrue or  
2 misleading.”

3       88. Throughout the Class Period, Defendant committed acts of false  
4 advertising, as defined by §§ 17500, by using false and misleading statements to  
5 promote the sale of the Supplements, as described above, including but not limited  
6 to, misrepresenting that the Supplements “[s]upport[] connective tissue, cartilage  
7 health, and joint movement” and that “[g]lucosamine, MSM, Chondroitin and Green  
8 Lipped Mussel . . . support connective tissue, cartilage health, joint movement, and  
9 lubrication of joints.”

10      89. Defendant knew or should have known, through the exercise of  
11 reasonable care that the statements were untrue and misleading.

12      90. Defendant’s actions in violation of §§ 17500 were false and misleading  
13 such that the general public is and was likely to be deceived.

14      91. As a direct and proximate result of these acts, consumers have been and  
15 are being harmed. Plaintiff and members of the Classes have suffered injury and  
16 actual out-of-pocket losses because: (a) Plaintiff and members of the Classes would  
17 not have purchased the Supplements if they had known the true facts regarding the  
18 Supplements; (b) Plaintiff and members of the Class paid a price premium due to the  
19 misrepresentations about the Supplements; and (c) the Products did not have the  
20 promised quality, effectiveness, or value.

92. Plaintiff brings this action pursuant to § 17535 for injunctive relief to enjoin the practices described herein and to require Defendant to issue corrective and disclosures to consumers. Plaintiff and the members of the Classes are therefore entitled to: (a) an order requiring Defendant to cease the acts of unfair competition alleged herein; (b) full restitution of all monies paid to Defendant as a result of its deceptive practices; (c) interest at the highest rate allowable by law; and (d) the payment of Plaintiff's attorneys' fees and costs.

COUNT IX

# **Violation of Unfair Competition Law (“UCL”) Business & Professions Code §§ 17200, et seq.**

93. Plaintiff incorporates by reference and re-alleges each and every allegation set forth above as though fully set forth herein.

94. Plaintiff brings this claim individually and on behalf of the members of the proposed Class against Defendant.

95. Defendant is subject to the UCL, Bus. & Prof. Code § 17200, *et seq.*  
The UCL provides, in pertinent part: “Unfair competition shall mean and include unlawful conduct, unfair or fraudulent business practices and unfair, deceptive, untrue or misleading advertising....” The UCL also provides for injunctive relief and restitution for violations.

96. “By proscribing any unlawful business practice, § 17200 borrows violations of other laws and treats them as unlawful practices that the UCL makes independently actionable.” *Cel-Tech Communications, Inc. v. Los Angeles Cellular*

1       *Telephone Co.*, 20 Cal. 4th 163, 180 (1999) (citations and internal quotation marks  
2 omitted).

3           97. Virtually any law or regulation—federal or state, statutory, or common  
4 law—can serve as a predicate for a UCL “unlawful” violation. *Klein v. Chevron*  
5 *U.S.A., Inc.*, 202 Cal. App. 4th 1342, 1383 (2012).

6           98. Defendant has violated the UCL’s “unlawful prong” as a result of its  
7 violations of the CLRA and FAL, as well as by breaching implied warranties as  
8 described herein.

9           99. Throughout the Class Period, Defendant committed acts of unfair  
10 competition, as defined by § 17200, by using false and misleading statements to  
11 promote the sale of the Supplements, as described above.

12           100. Defendant’s misrepresentations and other conduct, described herein,  
13 violated the “unfair prong” of the UCL because the conduct is substantially injurious  
14 to consumers, offends public policy, and is immoral, unethical, oppressive, and  
15 unscrupulous, as the gravity of the conduct outweighs any alleged benefits.  
16 Defendant’s conduct is unfair in that the harm to Plaintiff and members of the  
17 Classes arising from Defendant’s conduct outweighs the utility, if any, of those  
18 practices.

19           101. Defendant’s practices as described herein are of no benefit to consumers  
20 who are tricked into believing that the Supplements are fit for their purpose as joint  
21 health supplements for dogs. Defendant’s practice of injecting misinformation into  
22

1 the marketplace about the capabilities of its Supplements is unethical and  
2 unscrupulous, especially because consumers trust companies like Defendant to  
3 provide accurate information about their products. Taking advantage of that trust,  
4 Defendant misrepresents the effectiveness and quality of its Supplements to increase  
5 sales. Consumers believe that Defendant is an authority on the effectiveness and  
6 quality of dog supplements and therefore believe Defendant's representations that its  
7 Supplements are effective for their intended use as joint health nutritional  
8 supplements for dogs.

102. Defendant's conduct described herein, violated the "fraudulent prong"  
11 of the UCL by representing that the Supplements were effective for their intended  
12 use as joint health supplements for dogs, when in fact they were not.  
13

103. Plaintiff and members of the Class are not sophisticated experts with  
14 independent knowledge of the effectiveness of the Supplements, and they acted  
15 reasonably when they purchased the Supplements based on their belief that  
16 Defendant's representations were true.  
17

104. Defendant knew or should have known, through the exercise of  
18 reasonable care, that its representations about the Products were untrue and  
19 misleading.  
20

105. As a direct and proximate result of these acts, consumers have been and  
21 are being harmed. Plaintiff and members of the Classes have suffered injury and  
22 actual out of pocket losses as a result of Defendant's unfair, unlawful, and fraudulent  
23  
24

1 business acts and practices because: (a) Plaintiff and members of the Classes would  
2 not have purchased the Supplements on the same terms if they had known the true  
3 facts regarding the safety and effectiveness of the Supplements; (b) Plaintiff and  
4 members of the Class paid a price premium due to the misrepresentations on  
5 Defendant's Supplements; and (c) Defendant's Supplements did not have the quality  
6 and effectiveness or value as promised.  
7  
8

9 106. Pursuant to *California Business & Professions Code* § 17203, Plaintiff  
10 and members of the Classes are therefore entitled to: (a) an Order requiring  
11 Defendant to cease the acts of unfair competition alleged herein; (b) full restitution  
12 of all monies paid to Defendant as a result of its deceptive practices; (c) interests at  
13 the highest rate allowable by law; and (d) the payment of Plaintiff's attorneys' fees  
14 and costs.  
15  
16

#### **PRAAYER FOR RELIEF**

18 WHEREFORE, Plaintiff, individually and on behalf of all others similarly  
19 situated, seeks judgment against Defendant, as follows:  
20  
21

- 22 (a) For an order certifying the Class and Subclass under Rule 23 of  
the Federal Rules of Civil Procedure and naming Plaintiff as  
representative of the Class and Plaintiff's attorneys as Class  
Counsel to represent the Class and Subclass;
- 24 (b) For an order finding in favor of Plaintiff and the Class and  
Subclass on all counts asserted herein;
- 26 (c) For compensatory and punitive damages in amounts to be  
determined by the Court and/or jury;  
27  
28

- (d) For prejudgment interest on all amounts awarded;
  - (e) For an order of restitution and all other forms of equitable monetary relief;
  - (f) For injunctive relief as pleaded or as the Court may deem proper; and
  - (g) For an order awarding Plaintiff and the Class and Subclass her reasonable attorneys' fees and expenses and costs of suit.

## **DEMAND FOR TRIAL BY JURY**

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff demands a trial by jury of any and all issues in this action so triable of right.

Dated: May 6, 2022

Respectfully Submitted,

## **BURSOR & FISHER, P.A.**

By: /s/ L. Timothy Fisher

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*Attorneys for Plaintiff*

1                   **CLRA Venue Declaration Pursuant to California Civil Code Section 1780(d)**

2                   I, L. Timothy Fisher, declare as follows:

3                   1. I am an attorney at law licensed to practice in the State of California and  
4 I am member of the bar of this Court. I am a partner at Burson & Fisher, P.A.,  
5 counsel of record for Plaintiff in this action. I have personal knowledge of the facts  
6 set forth in this declaration and, if called as a witness, I could and would competently  
7 testify thereto under oath.

8                   2. The Complaint filed in this action is filed in the proper place for trial  
9 under Civil Code Section 1780(d) in that a substantial portion of the events alleged  
10 in the Complaint occurred in this District.

11                  3. I declare under the penalty of perjury under the laws of the State of  
12 California and the United States that the foregoing is true and correct and that this  
13 declaration was executed at Walnut Creek, California this 6th day of May, 2022.

14                  \_\_\_\_\_  
15                  */s/ L. Timothy Fisher*  
16                  L. Timothy Fisher